



Attorney Docket No. 72.053

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Günter Kunze et al.

Art Unit: 1723

Appl. No.: 09/937,331

Examiner: Tony Glen Soohoo

Filing Date: September 21, 2001

Confirmation No. 9486

Title: *Internal Vibrator with a Measuring System*

Assignee: Wacker Construction Equipment AG

DECLARATION OF DR. GEORG SICK UNDER 37 CFR §1.132

I, Dr. Georg Sick, hereby declare and state as follows:

1. I make this declaration in support of a response to the outstanding Office Action in U.S. Patent Application No. 09/937,331 entitled "*Internal Vibrator with a Measuring System*" (the '331 Application) which claims priority to German Patent Application Serial No. 199 13 077.9; filed March 23, 1999.
2. I consider myself to be skilled in the field of vibrator devices commonly employed in the densifying or compacting of poured concrete material. I base this conclusion on the fact that I hold a degree in engineering. In addition, I have 11 years of experience in designing construction equipment including internal vibrators.
3. I am co-inventor of the '331 Application. I have read the Examiner's Office Action of May 25, 2005 and the prior art cited by the Examiner in his Office Action.
4. I believe, based on my knowledge of the invention disclosed and claimed in the '331 Application, that the claimed invention of the '331 Application is sufficiently enabled as of the filing of the instant patent application to allow one skilled in the art to make and use the invention without undue experimentation. The reasons for my belief are detailed in the paragraphs that follow.

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5. The Examiner should refer to page 5, lines 15-19 of the specification which discloses acceleration detectors 6 serving as motion measurement devices. The evaluation circuit 10 receives and evaluates the signals provided by the acceleration detections 6 (page 5, line 26 – page 6, line 1 of specification). The specification discloses that a memory is provided to store characteristics fields or algorithms, and that the evaluation characteristics or algorithms can be established by an expert by means of preliminary tests to relate or map corresponding parameters to the densification results (page 6, lines 3-7 of specification). Creating maps or algorithms from acquired data as described in that passage is a routine task for me and, I believe, others skilled in the art. To create a densification map, all one need to is to conduct a preliminary test by measuring density during operation of a poker vibrator using an off the shelf density measuring device and to observe, for each measuring incremental densification level, a corresponding vibrator operational parameter such as acceleration. The observed operational parameter can then be tabulated or “mapped” for an entire range of measured densities, and the map can be stored in an evaluation circuit of a poker vibrator and used to indicate densification during operation of the poker vibrator by monitoring the parameter that was observed during the preliminary test.

6. I estimate that, based on a reading of the ‘331 Application and my knowledge of poker vibrator and control arts, it would take me not more than 6 hours to create a map or algorithm relating the monitored parameter to the trend in the densified state of the material as disclosed in the specification, which in my opinion is not undue experimentation for one skilled.

7. I have also read and understood GB 1,097,651 patent to Kerridge (herein “the GB ‘651 patent”). There is no teaching or suggestion of using motion to determine a trend in the densified state of the material. However, the GB 1097651 patent provides a presumably enabling disclosure of how to use the electrical power consumption of the vibrator motor to determine a trend in a “densified state” of the material (whether material is getting more compact) at least to the level

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disclosed without undue experimentation. In my opinion, one skilled in the art as of the filing date of this application would have known, based on the specification of the present application, how to create and apply an algorithm that relates or maps a measured motion parameter relative to a trend in a densified state of the material without undue experimentation as least to the level disclosed in the GB 1097651 patent.

8. In short, based on the above-described well-known publications and references, in my opinion, the claimed invention of the '131 Application is sufficiently enabled as of the filing of the instant patent application to allow one skilled in the art to make and use the invention without undue experimentation.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 08/08/2005

Dr. Georg Sick